

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,
BOARD OF ALTERNATIVE HEALTH CARE, BOARD OF ARCHITECTS, BOARD
OF ATHLETICS, BOARD OF BARBERS AND COSMETOLOGISTS, BOARD OF
CHIROPRACTORS, BOARD OF CLINICAL LABORATORY SCIENCE
PRACTITIONERS, BOARD OF DENTISTRY, STATE ELECTRICAL BOARD,
BOARD OF FUNERAL SERVICE, BOARD OF HEARING AID DISPENSERS,
BOARD OF MEDICAL EXAMINERS, BOARD OF NURSING, BOARD OF NURSING
HOME ADMINISTRATORS, BOARD OF OCCUPATIONAL THERAPY PRACTICE,
BOARD OF OPTOMETRY, BOARD OF OUTFITTERS, BOARD OF PHARMACY,
BOARD OF PHYSICAL THERAPY EXAMINERS, BOARD OF PLUMBERS, BOARD
OF PRIVATE SECURITY PATROL OFFICERS AND INVESTIGATORS, BOARD OF
PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS,
BOARD OF PSYCHOLOGISTS, BOARD OF PUBLIC ACCOUNTANTS, BOARD OF
RADIOLOGIC TECHNOLOGISTS, BOARD OF REAL ESTATE APPRAISERS,
BOARD OF REALTY REGULATION, BOARD OF RESPIRATORY CARE
PRACTITIONERS, BOARD OF SANITARIANS, BOARD OF SOCIAL WORK
EXAMINERS AND PROFESSIONAL COUNSELORS, BOARD OF SPEECH-
LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, BOARD OF VETERINARY
MEDICINE, BOILER OPERATING ENGINEERS PROGRAM, CONSTRUCTION
BLASTERS PROGRAM, CRANE AND HOISTING OPERATING ENGINEERS
PROGRAM, FIRE PREVENTION AND FIREWORKS WHOLESALERS PROGRAM,
AND LICENSED ADDICTION COUNSELORS PROGRAM
OF THE STATE OF MONTANA

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| In the matter of the proposed transfer and |) NOTICE OF PUBLIC |
| amendment of ARM 8.2.208, adoption of NEW |) HEARING ON PROPOSED |
| RULES I through XIV, amendment of ARM 8.11.101, |) TRANSFER AND |
| 8.11.114, 8.11.115, 8.11.118, 8.32.306, 8.32.402, |) AMENDMENT, ADOPTION, |
| 8.32.410, 8.32.411, 8.32.425, 8.32.426, 8.32.1501, |) AMENDMENT, AND |
| 8.32.1509, 8.32.1510, 24.111.401, 24.111.2101, |) REPEAL |
| 24.111.2102, 24.111.2103, 24.111.2301, 24.114.401, |) |
| 24.114.406, 24.114.2101, 24.117.402, 24.117.406, |) |
| 24.121.401, 24.121.603, 24.121.609, 24.121.2101, |) |
| 24.122.401, 24.122.515, 24.126.401, 24.126.2101, |) |
| 24.129.401, 24.129.602, 24.129.610, 24.131.405, |) |
| 24.131.501, 24.135.402, 24.135.2101, 24.138.301, |) |
| 24.138.402, 24.138.517, 24.138.518, 24.138.530, |) |
| 24.141.405, 24.141.2101, 24.141.2102, 24.144.404, |) |
| 24.144.502, 24.144.2102, 24.147.401, 24.147.505, |) |
| 24.147.1313, 24.150.301, 24.150.401, 24.150.505, |) |
| 24.150.2101, 24.150.2201, 24.156.601, 24.156.615, |) |
| 24.156.617, 24.156.805, 24.156.808, 24.156.1002, |) |
| 24.156.1004, 24.156.1302, 24.156.1305, |) |
| 24.156.1402, 24.156.1411, 24.156.1605, |) |
| 24.156.2717, 24.156.2719, 24.156.2731, |) |
| 24.162.420, 24.162.2101, 24.165.401, 24.165.407, |) |
| 24.168.401, 24.168.2101, 24.171.401, 24.171.2101, |) |

24.174.401, 24.174.1402, 24.174.2103, 24.174.2107,)
24.177.401, 24.177.410, 24.177.504, 24.177.2101,)
24.180.401, 24.180.410, 24.180.607, 24.180.707,)
24.180.2101, 24.182.401, 24.182.511, 24.182.513,)
24.183.404, 24.183.2101, 24.183.2103, 24.189.401,)
24.189.407, 24.189.2107, 24.201.410, 24.201.2101,)
24.204.401, 24.204.404, 24.204.2102, 24.207.401,)
24.207.517, 24.207.2101, 24.210.401, 24.210.635,)
24.210.661, 24.210.667, 24.210.801, 24.210.825,)
24.210.835, 24.210.836, 24.210.1020, 24.213.401,)
24.213.403, 24.213.412, 24.213.2121, 24.216.402,)
24.216.2101, 24.219.401, 24.219.405, 24.219.615,)
24.222.401, 24.222.2102, 24.225.401, 24.225.510,)
24.225.511, 24.225.515, 24.225.550, 24.225.709,)
24.225.750, and 24.225.925, and REPEAL of)
24.121.609, 24.156.602, 24.183.2104, and)
24.225.515)

TO: All Concerned Persons

1. On March 20, 2006, at 10:00 a.m., a public hearing will be held in room 489, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed transfer and amendment, adoption, amendment, and repeal of the above-stated rules. ARM 8.2.208 which pertains to renewal dates and requirements is proposed to be transferred and amended. The proposed new rules pertain to purpose, definitions, fees, licensing, renewal notification, and renewed, lapsed, expired or terminated licenses. The proposed amendments generally pertain to fees, renewals, continuing education, licensing requirements, unprofessional conduct, duplicate or lost licenses, definitions, examinations, prescriptive authority, trainees, inactive status, out-of-state applicants, temporary licenses or practice permits, reinstatement, expired or lapsed license, requirements, lists, abatement of fee rules, and training programs. The rules proposed to be repealed pertain to lapsed licenses, nonrefundable fees, expired certificate - renewal of grace period, and forfeiture of license and restoration.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Business Standards Division (Division) no later than 5:00 p.m. on March 13, 2006, to advise us of the nature of the accommodation that you need. Please contact Kathy Lubke, Business Standards Division, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2349; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail klubke@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: Montana's 59th Legislature enacted House Bill (HB) 182 (Chapter 467, L. 2005) that became

effective July 1, 2005. This legislation generally revised and consolidated professional and occupational licensing laws; provided distinction between Department and Board or Program duties regarding licensure, examination, and fees; required standardization of forms; set uniform standards for license renewal, including renewal periods; removed specific Board or Program references if duties are assigned to the Department or provided generally to all Boards; and repealed certain Board-specific or Program-specific references to licensure, examinations, and fees.

This rulemaking notice serves to implement the major changes created by this legislation. The Department has determined that in order to implement these major provisions of HB 182, it is most efficient, cost effective and timely, and will ensure consistency among rules to adopt one notice with changes impacting all Boards and Programs.

Amendments in this notice serve to reduce duplication throughout the rules by putting information that is applicable to all Boards and Programs into Division rules instead of listing them within the rules of each individual Board or Program. The basic functions of all Division licensing entities are the same, therefore the general rules of these entities should be similar. Having rules applicable to the Division provides standardization and consistency among licensing entities. Logically, with standardization and consistency as a goal, the impacted rules should all be dealt with at the same time.

The Department has determined that it is reasonable and necessary to transfer and amend ARM 8.2.208 as the first piece of implementing HB 182. Chapter 483, L. 2001, transferred Professional and Occupational Licensing from the Department of Commerce (Title 8) to the Department of Labor and Industry (Title 24). Transferring ARM 8.2.208 into Title 24 will aid users in locating the current renewal dates for all Division licensing Boards and Programs. The rule is being amended to change the format from a paragraph style into a more user friendly table format. This format allows for ease in locating the license type, renewal frequency and renewal date. This transfer and amendment is being completed at this time along with changing other renewal date references in individual Board and Program rules, to ensure that all Board and Program license renewal dates are set by department rule as specified in 37-1-141, MCA. Amending individual rules to eliminate specific renewal dates or the reference to the duration of the license will eliminate the need to amend various rules if the renewal date or frequency should change. Removing these references from numerous rules eliminates the possibility of having conflicting dates and timeframes between rules. Also, this consolidated rule creates standardization and consistency among Division licensing entities.

Board and Program fee rules are being amended at this time to remove various fees from individual Board and Program rules. The Department has determined there are numerous common services provided by most Boards and Programs. The fees vary greatly, and part of the directive of HB 182 is to standardize fees for administrative services such as license verification, duplicate licenses, late penalty renewals, and

licensee lists. These administrative type services are being removed from individual Board and Program rules and consolidated into a Division rule (NEW RULE III) applicable to all Boards and Programs. By having standardized fees applicable for the same services, the fee discrepancy between various Boards and Programs is eliminated. With the creation of the Division licensee database, the cost of providing duplicate licenses, license verification, and licensee lists is no longer variable between licensing entities. The costs associated with providing these services are now the same among licensing entities. All licensees will be charged the same amount for the same service. Amending all Board and Program fee rules through the same notice treats all licensees equitably by charging the same fees for all licensees at the same time. A reference to the standardized fee rule is included in each Board or Program fee rule to make rule users aware that there are other fees that may be charged for services provided by the Division.

Other common amendments deal with terminology changes. HB 182 has defined three terms in conjunction with license renewal. Expired, lapsed, and terminated licenses are now defined in statute. These terms have been used within the existing rules. However, the context may not be consistent with the new statutory definition. It is reasonable and necessary to amend the rules to use terms consistently between the statutes and rules, to avoid potential areas of confusion, and to provide clarity.

Generally, it is also reasonable and necessary to amend authority and implementing citations to reflect changes implementing HB 182 that impact rulemaking authority and the sections being implemented by statute changes. The most common changes to the authority and implementing citations are to remove references to statutes that have been repealed, to add 37-1-134 and 37-1-141, MCA, to fee rule authority and implementing cites as needed, and to add 37-1-141, MCA, to renewal rules as necessary.

Repealed MCA cites are being removed as rules are amended to reflect the laws that are in effect at the time of the amendment.

Section 37-1-134, MCA, provides for establishing standardized fees, therefore it is included as an authorizing and implementing statute in the fee rules. Section 37-1-141, MCA, provides for assessing a late penalty fee, therefore this statute has been added as an implementing cite. Also it is reasonable and necessary to amend fee rules to indicate the Division is removing the hyphen in "non-refundable". This change is being made to make the word consistent throughout the Division's rules, and to follow the MCA and standard usage of the word nonrefundable.

In each renewal rule, reference is made to a common renewal date rule (ARM 8.2.208) and two proposed new Division rules (NEW RULES V and VI). Section 37-1-141, MCA, was amended to require that the renewal date for a license be set by Department rule and states the requirements for license renewal. Instead of repeating this standard language in each renewal rule, references to Division rules have been included. This coincides with the intent of the legislation to create uniform standards for license renewals, and revising notification periods. It is

therefore appropriate to include 37-1-141, MCA, as authority and implementing citations.

Also, language suggesting that renewal forms would be sent to licensees is to be deleted, and a generic reference that renewal notices would be sent as specified in NEW RULE V was inserted. This wording change is proposed to indicate that renewal forms may not always be sent, but licensees will be notified of the deadline to renew their license. With the increased use of the Department's online renewal service, it may no longer be necessary to send renewal forms. Renewal forms may be downloaded from the online renewal service if it is necessary to complete a paper copy of the renewal form instead of using the online renewal service. The renewal notice would also state that renewal forms are available upon request.

Rule catchphrases are being amended as appropriate in order to standardize the catchphrase. References to the renewal frequency are being eliminated in order to prevent the need for future amendment to specific rules if the renewal frequency is modified. The standard renewal date rule, ARM 8.2.208, would be the only rule that would need to be amended to indicate the renewal date or frequency change. By eliminating this duplication within numerous rules, it eliminates the possibility of conflicting information between rules, decreases the need for numerous rule amendments thereby creating less regulation and more efficiency.

4. The rule proposed to be amended and transferred provides as follows, deleted matter interlined, new matter underlined:

8.2.208 (24.101.413) RENEWAL DATES AND REQUIREMENTS

(1) Specific procedures and grace periods for renewal are set forth by department or board rule, or statute applicable to a particular profession, or 37-1-141, MCA. Such procedures shall take account of, and be based upon, the renewal dates ~~set forth~~ in this rule. An existing license ~~expires~~ ends on the renewal date ~~set forth~~ specified for each profession and occupation listed and must be renewed on or before this date.

(2) If a timely and sufficient application is submitted on or prior to such date, the applicant's continued practice is governed under 2-4-631, MCA. In order for an application to be timely and sufficient it must be:

(a) it must be completed with truthful information;

(b) accompanied by other required information or documentation as applicable;

(c) accompanied by the appropriate fee; and

(d) submitted so that it bears a U.S. Postal Service post mark prior to or on the renewal date for the applicable profession; or

(e) submitted by using the online renewal service available on the department's website. Although the department strives to keep its website accessible at all times, licensees should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing the online renewal service do not excuse late renewals;

(i) online renewal transactions must be fully completed prior to midnight Mountain time on the renewal date.

(3) If the requirements of this rule are not met, a late penalty fee as specified in [NEW RULE III] will be required in order to renew.

(4) The provisions of [NEW RULES V and VI] are applicable to all license renewals.

(2) (5) The following are renewal dates for the professions and occupations listed:

~~(a) January 1 is the renewal date for licenses and other authorities granted by the boards of nursing home administrators and psychologists;~~

~~(b) February 1 is the renewal date for licenses and other authorities granted by the boards of radiological technologists and speech-language pathologists and audiologists;~~

~~(c) March 1 is the renewal date for licenses and other authorities granted by the board of dentistry;~~

~~(d) March 31 is the renewal date for licenses and other authorities granted by the boards of barbers, medical examiners and real estate appraisers;~~

~~(e) April 1 is the renewal date for licenses and other authorities granted by the board of physical therapy examiners, and is the renewal date for guides and professional guides (regulated by the board of outfitters);~~

~~(f) April 30 is the renewal date for licenses and other authorities granted by the board of alternative health care;~~

~~(g) May 1 is the renewal date for licenses and other authorities granted by the boards of respiratory care practitioners and clinical laboratory science practitioners;~~

~~(h) June 15 is the renewal date for licenses and other authorities granted by the board of occupational therapy practice;~~

~~(i) June 30 is the renewal date for licenses and other authorities granted by the boards of hearing aid dispensers, landscape architects, professional engineers and land surveyors (every even-numbered year), pharmacists and sanitarians;~~

~~(j) July 1 is the renewal date for licenses and other authorities granted by the boards of architects, funeral service, and is the renewal date for salons and booth rentals (regulated by the board of cosmetologists);~~

~~(k) July 2 is the renewal date for licenses and other authorities granted by the board of optometry;~~

~~(l) July 15 is the renewal date for licenses and other authorities granted by the state electrical board (every third year with the first renewal coming due on July 15, 1997);~~

~~(m) September 1 is the renewal date for licenses and other authorities granted by the boards of plumbers and chiropractors;~~

~~(n) October 31 is the renewal date for physician assistants-certified, nutritionists, acupuncturists and podiatrists (regulated by the board of medical examiners);~~

~~(o) November 1 is the renewal date for licenses and other authorities granted by the board of veterinary medicine;~~

~~(p) November 30 is the renewal date for pharmacy technicians, wholesale drug distributors, mail order pharmacies, certified pharmacies and dangerous drug act (regulated by the board of pharmacy);~~

~~(q) December 1 is the renewal date for licenses and other authorities granted by the board of private security patrol officers and investigators;~~

~~(r) December 31 is the renewal date for licenses and other authorities granted by the boards of nursing, public accountants, realty regulation, social work examiners and professional counselors, and is the renewal date for outfitters (regulated by the board of outfitters), property managers (regulated by the board of realty regulation), and cosmetology, manicuring, electrology and esthetic schools and cosmetologists, manicurists, electrologists, estheticians and instructors (regulated by the board of cosmetologists).~~

| | <u>BOARD OR PROGRAM JURISDICTION</u> | <u>LICENSE CATEGORY</u> | <u>FREQUENCY</u> | <u>RENEWAL DATE</u> |
|-----|--|--|---|-------------------------|
| (a) | <u>Alternative Health Care</u> | <u>Naturopathic Physician</u> | <u>Annually</u> | <u>April 30</u> |
| | | <u>Naturopathic Physician - Childbirth</u> | <u>Annually</u> | <u>April 30</u> |
| | | <u>Direct-entry Midwife</u> | <u>Annually</u> | <u>April 30</u> |
| | | <u>Direct-entry Midwife Apprentice</u> | <u>Annually</u> | <u>April 30</u> |
| (b) | <u>Architects</u> | <u>Architects</u> | <u>Biennially, Even Numbered Years</u> | <u>June 30</u> |
| (c) | <u>Athletics</u> | <u>Boxer, Club</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Boxer, Professional</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Boxer, Semi-Professional</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Cornerperson/Second</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Judge</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Kickboxer</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Knockdown Judge</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Manager/Trainer</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Minimum Kicking Requirements Official</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |

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| | | <u>Promoter/Matchmaker</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Referee</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Wrestler, Professional</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| | | <u>Wrestler, Semi-Professional</u> | <u>Nonrenewable, must reapply. License expires June 30.</u> | |
| <u>(d)</u> | <u>Athlete Agents</u> | <u>Athlete Agents</u> | <u>Biennially</u> | <u>Anniversary Date of Certificate</u> |
| <u>(e)</u> | <u>Barbers and Cosmetologists</u> | <u>Barber</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Barber Shop</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Barber School or College</u> | <u>Annually</u> | <u>December 31</u> |
| | | <u>Barbering Instructor</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Booth Rental</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Cosmetologist</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Electrologist</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Esthetician</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Instructor</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Manicurist</u> | <u>Biennially</u> | <u>December 31</u> |
| | | <u>Salon</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>School or Course</u> | <u>Annually</u> | <u>December 31</u> |
| <u>(f)</u> | <u>Boiler Operating Engineers</u> | <u>Agriculture Class Boiler Engineer</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| | | <u>First Class Boiler Engineer</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| | | <u>Low Pressure Boiler Engineer</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |

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| | | <u>Second Class Boiler Engineer</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| | | <u>Third Class Boiler Engineer</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| | | <u>Traction Boiler Engineer</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| <u>(g)</u> | <u>Chiropractors</u> | <u>Chiropractors</u> | <u>Annually</u> | <u>September 1</u> |
| <u>(h)</u> | <u>Clinical Laboratory Science Practitioners</u> | <u>Clinical Laboratory Scientist</u> | <u>Annually</u> | <u>May 1</u> |
| | | <u>Clinical Laboratory Specialist</u> | <u>Annually</u> | <u>May 1</u> |
| | | <u>Clinical Laboratory Technician</u> | <u>Annually</u> | <u>May 1</u> |
| <u>(i)</u> | <u>Construction Blasters</u> | <u>Construction Blasters</u> | <u>Annually</u> | <u>January 1</u> |
| <u>(j)</u> | <u>Crane and Hoisting Operating Engineers</u> | <u>First Class Crane Operators</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| | | <u>Second Class Crane Operators</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| | | <u>Third Class Crane Oiler</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| <u>(k)</u> | <u>Dentistry</u> | <u>Dental Hygienist</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Dentist</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Denturist</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>General Anesthesia Administration Permit</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Volunteer Licensees</u> | <u>Annually</u> | <u>March 1</u> |
| <u>(l)</u> | <u>Elevator Program</u> | <u>Contractor</u> | <u>Annually</u> | <u>April 1</u> |
| | | <u>Inspector</u> | <u>Annually</u> | <u>April 1</u> |
| | | <u>Mechanic</u> | <u>Annually</u> | <u>April 1</u> |
| <u>(m)</u> | <u>Fire Prevention and</u> | <u>Company Hiring Entity (Sell, Install and Service)</u> | <u>Annually</u> | <u>May 31</u> |

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| | <u>Investigation and Fireworks Wholesalers Program</u> | <u>Individual Endorsement (Sell, Install and Service)</u> | <u>Annually</u> | <u>May 31</u> |
| | | <u>Fireworks Wholesaler</u> | <u>Nonrenewable</u> | |
| <u>(n)</u> | <u>Funeral Service</u> | <u>Crematory</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Crematory Operator</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Crematory Technician</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Mortician</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Mortuary</u> | <u>Annually</u> | <u>July 1</u> |
| | | <u>Mortuary Branch Facility</u> | <u>Annually</u> | <u>July 1</u> |
| <u>(o)</u> | <u>Hearing Aid Dispenser</u> | <u>Hearing Aid Dispenser</u> | <u>Annually</u> | <u>June 30</u> |
| <u>(p)</u> | <u>Landscape Architects</u> | <u>Landscape Architects</u> | <u>Annually</u> | <u>June 30</u> |
| <u>(q)</u> | <u>Licensed Addiction Counselors</u> | <u>Licensed Addiction Counselor</u> | <u>Biennially</u> | <u>June 30</u> |
| <u>(r)</u> | <u>Medical Examiners</u> | <u>Acupuncturist</u> | <u>Biennially</u> | <u>October 31</u> |
| | | <u>Emergency Medical Technician</u> | <u>Biennially</u> | <u>March 31</u> |
| | | <u>Nutritionist</u> | <u>Biennially</u> | <u>October 31</u> |
| | | <u>Physician</u> | <u>Biennially</u> | <u>March 31</u> |
| | | <u>Physician Assistant</u> | <u>Biennially</u> | <u>October 31</u> |
| | | <u>Podiatrist</u> | <u>Biennially</u> | <u>October 31</u> |
| | | <u>Telemedicine Practitioners</u> | <u>Biennially</u> | <u>March 31</u> |
| <u>(s)</u> | <u>Nursing</u> | <u>Clinical Nurse Specialist</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |
| | | <u>Nurse Anesthetist</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |
| | | <u>Nurse Midwife</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |
| | | <u>Nurse Practitioner</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |

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| | | <u>APRN Prescriptive Authority</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |
| | | <u>Practical Nurse - Licensed</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |
| | | <u>Professional Nurse - Registered</u> | <u>Biennially, Even Numbered Years</u> | <u>December 31</u> |
| | | <u>Medication Aide</u> | <u>Annually</u> | <u>March 31</u> |
| <u>(t)</u> | <u>Nursing Home Administrators</u> | <u>Nursing Home Administrator</u> | <u>Annually</u> | <u>December 31</u> |
| <u>(u)</u> | <u>Occupational Therapy Practice</u> | <u>Occupational Therapist</u> | <u>Annually</u> | <u>June 15</u> |
| | | <u>Occupational Therapist Assistant</u> | <u>Annually</u> | <u>June 15</u> |
| <u>(v)</u> | <u>Optometry</u> | <u>Optometrist</u> | <u>Annually</u> | <u>July 2</u> |
| <u>(w)</u> | <u>Outfitters</u> | <u>Outfitter</u> | <u>Annually</u> | <u>December 31</u> |
| <u>(x)</u> | <u>Pharmacy</u> | <u>Dangerous Drug License</u> | <u>Annually</u> | <u>November 30</u> |
| | | <u>Mail Order Pharmacy</u> | <u>Annually</u> | <u>November 30</u> |
| | | <u>Pharmacist</u> | <u>Annually</u> | <u>June 30</u> |
| | | <u>Pharmacy</u> | <u>Annually</u> | <u>November 30</u> |
| | | <u>Pharmacy Technician</u> | <u>Annually</u> | <u>June 30</u> |
| | | <u>Pharmacy Technician in Training</u> | <u>Nonrenewable</u> | |
| | | <u>Pharmacy Technician Utilization Plan</u> | <u>Annually</u> | <u>November 30</u> |
| | | <u>Telepharmacies</u> | <u>Annually</u> | <u>November 30</u> |
| | | <u>Wholesale Drug Distributor</u> | <u>Annually</u> | <u>November 30</u> |
| <u>(y)</u> | <u>Physical Therapy Examiners</u> | <u>Physical Therapist</u> | <u>Annually</u> | <u>April 1</u> |
| | | <u>Physical Therapist Assistant</u> | <u>Annually</u> | <u>April 1</u> |
| <u>(z)</u> | <u>Plumbers</u> | <u>Journeyman Plumber</u> | <u>Annually</u> | <u>September 1</u> |
| | | <u>Master Plumber</u> | <u>Annually</u> | <u>September 1</u> |
| | | <u>Medical Gas Endorsement</u> | <u>Annually</u> | <u>September 1</u> |

| | | | | |
|-------------|---|---|--|--------------------|
| <u>(aa)</u> | <u>Private Security Patrol Officers and Investigators</u> | <u>Contract Security Company</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Electronic Security Company</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Proprietary Security Organization</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Branch Office</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Private Investigator</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Private Investigator Trainee</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Resident Manager</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Qualifying Agent</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Security Guard</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Alarm Installer</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Alarm Response Runner</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Firearms Instructor</u> | <u>Annually</u> | <u>March 1</u> |
| | | <u>Armed Status</u> | <u>Annually</u> | |
| <u>(ab)</u> | <u>Professional Engineers and Professional Land Surveyors</u> | <u>Certificate of Authority</u> | <u>Biennially, Even Numbered Years</u> | <u>June 30</u> |
| | | <u>Emeritus Status</u> | | |
| | | <u>Engineer Intern</u> | <u>Indefinite</u> | |
| | | <u>Land Surveyor Intern</u> | <u>None, Indefinite</u> | |
| | | <u>Professional Engineer</u> | <u>Biennially, Even Numbered Years</u> | <u>June 30</u> |
| | | <u>Professional Engineer by Comity</u> | <u>Biennially, Even Numbered Years</u> | <u>June 30</u> |
| | | <u>Professional Land Surveyor</u> | <u>Biennially, Even Numbered Years</u> | <u>June 30</u> |
| | | <u>Professional Land Surveyor by Comity</u> | <u>Biennially, Even Numbered Years</u> | <u>June 30</u> |
| <u>(ac)</u> | <u>Psychologists</u> | <u>Psychologist</u> | <u>Annually</u> | <u>December 31</u> |
| <u>(ad)</u> | <u>Public Accountants</u> | <u>Certified Public Accountant</u> | <u>Annually</u> | <u>December 31</u> |

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|-------------|---|--|--|------------------------------------|
| | | <u>Licensed Public Accountant</u> | <u>Annually</u> | <u>December 31</u> |
| <u>(ae)</u> | <u>Radiologic Technologists</u> | <u>Limited Permit X-Ray Procedures</u> | <u>Annually</u> | <u>February 1</u> |
| | | <u>Radiologic Technologists</u> | <u>Annually</u> | <u>February 1</u> |
| <u>(af)</u> | <u>Real Estate Appraisers</u> | <u>General Appraiser, Certified</u> | <u>Annually</u> | <u>March 31</u> |
| | | <u>General Appraiser, Certified (Out-of-State)</u> | <u>Annually</u> | <u>March 31</u> |
| | | <u>Licensed Appraiser Mentor</u> | <u>Annually</u> | <u>March 31</u> |
| | | <u>Residential Appraiser, Certified</u> | <u>Annually</u> | <u>March 31</u> |
| | | <u>Residential Appraiser, Certified (Out-of-State)</u> | <u>Annually</u> | <u>March 31</u> |
| | | <u>Trainee</u> | <u>Annually</u> | <u>March 31</u> |
| | | | | |
| <u>(ag)</u> | <u>Realty Regulation</u> | <u>Property Manager</u> | <u>Annually</u> | <u>October 31</u> |
| | | <u>Real Estate Broker</u> | <u>Biennially, Odd Numbered Years</u> | <u>October 31</u> |
| | | <u>Real Estate Salesperson</u> | <u>Biennially, Odd Numbered Years</u> | <u>October 31</u> |
| | | <u>Timeshare Broker</u> | <u>Annually</u> | <u>October 31</u> |
| | | <u>Timeshare Salesperson</u> | <u>Annually</u> | <u>October 31</u> |
| | | <u>Timeshare Offering</u> | <u>Annually</u> | <u>Anniversary Date of License</u> |
| <u>(ah)</u> | <u>Respiratory Care Practitioners</u> | <u>Respiratory Care Practitioners</u> | <u>Biennially, Even Numbered Years</u> | <u>May 1</u> |
| <u>(ai)</u> | <u>Sanitarians</u> | <u>Sanitarians</u> | <u>Annually</u> | <u>June 30</u> |
| <u>(aj)</u> | <u>Social Workers and Professional Counselors</u> | <u>Professional Counselor - Clinical</u> | <u>Annually</u> | <u>December 31</u> |
| | | <u>Social Worker - Clinical</u> | <u>Annually</u> | <u>December 31</u> |

| | | | | |
|-------------|--|---|---|-------------------|
| <u>(ak)</u> | <u>Speech-Language Pathologists and Audiologists</u> | <u>Audiologist</u> | <u>Annually</u> | <u>February 1</u> |
| | | <u>Audiologist Aide*</u> | <u>Annually* Aides are not license type and do not renew, but must be registered by supervising licensee.</u> | <u>October 31</u> |
| | | <u>Speech-Language Pathologist</u> | <u>Annually</u> | <u>February 1</u> |
| | | <u>Speech-Language Pathologist Aide*</u> | <u>Annually* Aides are not license type and do not renew, but must be registered by supervising licensee.</u> | <u>October 31</u> |
| | | <u>Active Temporary Speech Pathologist or Audiologist</u> | <u>Nonrenewable Two-year license</u> | |
| <u>(al)</u> | <u>State Electrical Board</u> | <u>Electrical Contractor</u> | <u>Nonrenewable, must reapply. License expires July 15.</u> | |
| | | <u>Journeyman Electrician</u> | <u>Biennially, Even Numbered Years</u> | <u>July 15</u> |
| | | <u>Master Electrician</u> | <u>Biennially, Even Numbered Years</u> | <u>July 15</u> |
| | | <u>Residential Electrician</u> | <u>Biennially, Even Numbered Years</u> | <u>July 15</u> |
| <u>(am)</u> | <u>Veterinary Medicine</u> | <u>Euthanasia Agency</u> | <u>Annually</u> | <u>May 30</u> |
| | | <u>Embryo Transfer Technician</u> | <u>Annually</u> | <u>November 1</u> |
| | | <u>Euthanasia Technician</u> | <u>Annually</u> | <u>May 30</u> |
| | | <u>Veterinarian</u> | <u>Annually</u> | <u>November 1</u> |

- (6) The following are nonrenewable licenses:
- (a) temporary licenses issued by a licensing entity unless that licensing entity's rules provide otherwise;
 - (b) fireworks wholesalers;
 - (c) real estate appraiser mentors;
 - (d) pharmacy technicians in training;
 - (e) active temporary speech pathologists and audiologists;
 - (f) land surveyor intern, engineer intern, emeritus status license issued by the Board of Professional Engineers and Professional Land Surveyors;
 - (g) all licenses issued by the Board of Athletics end on June 30 of each year and the licensee must reapply;
 - (h) guide and professional guide licenses issued by the Board of Outfitters end on December 31 of each year and the licensee must reapply; and
 - (i) electrical contractor licenses issued by the State Electrical Board end on July 15 biennially and the licensee must reapply.
- (7) The specific date by which each individual licensee is required to renew by can be obtained by contacting the licensing entity's office or by using the licensee lookup system available on the department's website.

AUTH: 37-1-101, 37-1-141, MCA
IMP: 37-1-101, 37-1-141, MCA

REASON: It is reasonable and necessary to amend this rule to identify the current renewal dates for professions and occupations licensed by the Division. It is also necessary to identify the duration of the license and the frequency of when a license needs to be renewed. This amendment and transfer will make information more readily accessible to licensees, Department staff and the public. The amendments also clarify what constitutes timely submission of renewal information. This provides clear direction to the licensee and describes the consequences for not renewing in a timely manner.

Also, it is reasonable to include (6) as a quick reference for those individuals who hold some sort of "license" which is unable to be renewed. This easily identifies those "license" holders that are mentioned within individual Board's or Program's rules who are accountable to the Board or Program, but whose license cannot be renewed. Section (7) is included to reassure licensees that there is help available if a licensee is unsure of the date to renew a specific license. See general statement of reasonable necessity for more detail.

5. The Division rules proposed to be adopted provide as follows:

NEW RULE I PURPOSE (1) The purpose of this subchapter is to standardize similar functions and processes within the division and administratively attached boards, including, but not limited to:

- (a) setting standardized fees;
- (b) standardizing forms;
- (c) eliminating the need for a licensing board to issue routine licenses; and

- (d) setting uniform standards for license renewal.

AUTH: 37-1-101, MCA

IMP: 37-1-101, 37-1-104, MCA

REASON: It is reasonable and necessary to promulgate this rule to provide users with a general overview of the subchapter contents. These rules are proposed in order to implement the changes enacted by HB 182.

NEW RULE II DEFINITIONS As used in conjunction with Title 37, MCA, the following definitions apply:

(1) "Active status" means the license holder is afforded the rights and privileges to practice under the license while complying with the requirements as set by the licensing entity.

(2) "Administrative fees" means a fee charged for products or services provided by the division.

(3) "Department" means the Department of Labor and Industry.

(4) "Disciplinary action" means the procedure by which unprofessional conduct is addressed by the licensing entity pursuant to the contested case hearing provisions of the Montana Administrative Procedure Act (MAPA).

(5) "Division" means the Business Standards Division of the Department of Labor and Industry.

(6) "Expired license" means a license for which the renewal requirements have not been met within 45 days to two years after the license renewal date. An expired license may be reactivated anytime within these two years.

(7) "Inactive status" means an option provided by some licensing entities in which a licensee may retain a license but the licensee does not intend to practice, nor will the licensee engage in licensed activities at any time during the duration of the inactive status license. The licensee may wish to reactivate the inactive status license in the future. An inactive license must be renewed as prescribed by the licensing entity.

(8) "Lapsed license" means a license that has not been renewed by the license renewal date. A lapsed license may be reactivated at anytime within 45 days following the license renewal date.

(9) "Late penalty fee" means the fee that is required to be paid by a licensee upon renewal of a license if the licensee failed to renew the license by the renewal date.

(10) "New original license" means a license issued to an individual whose previous original license terminated and was not reinstated. In order to receive a new original license, all current requirements for obtaining an original license must be met including, but not limited to, submitting required application materials, successfully passing the required examinations as applicable, and paying the appropriate fees. The new original license number will remain the same as the original license number.

(11) "Nonroutine application" means an application submitted to the division in which the application is defined as nonroutine either by the specific licensing

entity's rules or by these rules. In conflicts between the specific licensing entity's rules and these rules, the specific licensing entity's rules govern.

(a) A nonroutine application means that the applicant has one or more of the following:

(i) has pending or completed disciplinary action in this state, or pending or completed disciplinary action in another state, territory, or jurisdiction;

(ii) is restricted by the terms and conditions of a final order in a disciplinary matter;

(iii) is required to submit materials that require professional evaluation by another licensee or licensing entity; or

(iv) is foreign-educated, except for those foreign-educated applicants applying for licensure from the following:

(A) Board of Medical Examiners;

(B) Board of Professional Engineers and Professional Land Surveyors; or

(C) Board of Realty Regulation.

(12) "Probationary license" means a license, that due to discipline taken against the licensee, signifies the license holder is afforded the rights and privileges to practice under the license while complying with the terms and conditions of a final order as issued by the licensing entity.

(13) "Reactivated license" means a lapsed or expired license that is renewed between the renewal date and two years following the renewal date. In order to reactivate a license, all renewal requirements must be met.

(14) "Reactivation of license" means activating a lapsed or expired license.

(15) "Renewal date" means the date by which an existing license must be renewed as listed in ARM 8.2.208. Renewal information must be submitted on or before the renewal date in order for a license to be renewed without the assessment of the late penalty fee.

(16) "Routine application" means an application submitted to the division in which the application is defined as routine either by the specific licensing entity's rules or by these rules. In conflicts between the specific licensing entity's rules and these rules, the specific licensing entity's rules govern.

(a) A routine application means that the applicant does not have one or more of the following:

(i) pending or completed disciplinary action in this state, or pending or completed disciplinary action in another state, territory, or jurisdiction;

(ii) is not restricted by the terms and conditions of a final order in a disciplinary matter;

(iii) is not required to submit materials that require professional evaluation by another licensee or licensing entity; or

(iv) is not foreign-educated, except for those foreign-educated applicants applying for licensure from the following:

(A) Board of Medical Examiners;

(B) Board of Professional Engineers and Professional Land Surveyors; or

(C) Board of Realty Regulation.

(17) "Standardized fee" means an administrative fee for a common product or service that is charged to division customers.

(18) "Suspended license" means a license, that due to discipline taken against the licensee, signifies the license holder is no longer afforded the rights and privileges to practice under the license for a period of time specified by the final order issued by the licensing entity.

(19) "Terminated license" means a license that has not been renewed or reactivated within two years of the renewal deadline. A terminated license may not be reactivated.

AUTH: 37-1-101, MCA

IMP: 37-1-130, 37-1-131, 37-1-141, MCA

REASON: It is reasonable and necessary to promulgate this rule to indicate the context of words that are used throughout Division rules. The definition rule serves to clarify the meaning of frequently used words and provides consistent application throughout the rules.

Section 2-4-305(2), MCA, states "rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language." The terms "expire", "lapsed" and "terminated" have been defined in 37-1-130, MCA, as amended by HB 182, but are included in this notice for clarity. Usage of these terms throughout existing Board and Program rules may not be used in the same context as the new definitions. In order to ensure that the new meaning is conveyed to the licensees, it is necessary to include the substance of these statutory definitions in the rule.

NEW RULE III FEES (1) Standardized fees, in addition to those fees charged by a specific licensing entity are as follows:

- | | |
|---|------|
| (a) duplicate license | \$ 5 |
| (b) licensee lists or rosters | 50 |
| (c) photocopies per page (in excess of 20 pages) | .25 |
| (d) certified copies per page (in excess of ten pages) | .50 |
| (e) license history | 20 |
| (f) duplicate wall certificate | 20 |
| (g) returned check fee, including but not limited to, checks issued with nonsufficient funds, stop payment requests, or missing signatures | 30 |
| (h) license verification | 20 |
| (i) the license verification fee is waived for any licensing entity with a signed reciprocal agreement with another licensing entity and the licensing entities have agreed that no fees are to be charged; | |
| (j) status change fee from inactive to active during the licensure period is the difference between the cost of an inactive license and an active license renewal fee; | |
| (k) renewal fee for a suspended license is 50% of the renewal fee; and | |
| (l) renewal fee for a probationary license is the same as the renewal fee. | |

(2) The late penalty fee for each renewal period a license has not been renewed shall be 100% of the renewal fee. The penalty fee is in addition to the renewal fee and must be paid for each renewal period that the license has not been renewed. If the license has not been renewed on or before the date set by ARM 8.2.208, the late penalty fee must be paid.

(a) In the event a renewal fee has been abated, the late penalty fee still applies. The late penalty fee that must be paid is 100% of the renewal fee that would have been charged had the renewal fee not been abated.

(3) When converting an inactive status license to an active status license, the difference between the inactive status fee and the active status fee must be paid for the remainder of the current renewal period.

(4) When a military reservist renews a professional or occupational license after being discharged from active duty, the renewal fee will be the current renewal fee. No past fees accrued while the reservist was on active duty will be charged.

(5) All fees are nonrefundable.

AUTH: 37-1-101, MCA

IMP: 27-1-717, 37-1-130, 37-1-134, 37-1-138, MCA

REASON: It is reasonable and necessary to create a fee rule designating standard fees for those services provided by most licensing entities of the Division. Specific fiscal impact statements are included in the reasonable necessity statement for individual Board or Program fee rules. See general reasons for more detail.

NEW RULE IV LICENSING (1) The department will issue all licenses to those routine applicants who meet the licensing requirements and pay the required fees.

(2) The department will issue all licenses as directed by the governing board to those nonroutine applicants who meet the licensing requirements and pay the required fees. A nonroutine applicant may be asked to appear before the board prior to the final board decision regarding the granting of a nonroutine license.

AUTH: 37-1-101, MCA

IMP: 37-1-101, 37-1-130, MCA

REASON: It is reasonable and necessary to promulgate this rule to identify that the Department will review and process all routine applications. It is no longer necessary for individual Boards to approve all license applications. This streamlines the application process, decreases the amount of time Boards spend reviewing and approving applications that do not vary from the standard application requirements. This time savings will benefit both Board members and the public by allowing the Board to focus on more significant issues.

Also, it is reasonable and necessary to identify that the Department will issue licenses to all nonroutine applicants as directed by the governing Board. This rule clarifies that the decision to issue a license to a nonroutine applicant is left to the discretion of the licensing Board regulating that specific profession or occupation.

NEW RULE V RENEWAL NOTIFICATION (1) The department shall send renewal notices to all licensees. Renewal notices shall be sent to the last known address in the division's records. It is the responsibility of the licensee to keep the division timely informed of the licensee's current mailing address. Failure to receive notice for renewal in no way releases the licensee from the obligation to renew in a timely manner, and shall not constitute a defense to practicing without a license.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-130, 37-1-141, MCA

REASON: It is reasonable and necessary to adopt this rule to standardize the notification process for licensees. The process for sending renewal notices varied between licensing entities. This rule will provide equity by giving all licensees advance notice that their license needs to be renewed. See general reasons for more detail.

NEW RULE VI RENEWED, LAPSED, EXPIRED, OR TERMINATED LICENSES (1) All licenses must be renewed on or before the renewal date as listed in, and in accordance with ARM 8.2.208. Late renewals must be accompanied by the fees as specified in [NEW RULE III] and any other information required as if the renewal were submitted prior to the renewal date.

(a) A suspended license must be renewed in accordance with ARM 8.2.208 or the license will proceed to expire or terminate.

(2) If the license has not been renewed, the license shall be considered a lapsed, expired, or terminated license.

(a) A lapsed license may be reactivated within 45 days of the renewal date by submitting the required, completed renewal information and paying the required fees.

(b) Licenses not renewed within 45 days from the renewal date automatically expire. An expired license may be reactivated within two years of the renewal date by submitting the required, completed renewal information and paying the required fees.

(c) Licenses not renewed within two years from the renewal date automatically terminate. A terminated license may not be reactivated. A new original license must be obtained by completing the current requirements for a new application, including successfully passing the licensing examination if applicable.

(3) A licensee whose license has lapsed or expired, may not apply for a new license. A licensee must renew the license if it has lapsed or expired. All renewal requirements must be met and fees paid in order for a lapsed or expired license to be renewed. A new original license will be issued to a licensee whose license has terminated, provided all licensing requirements are met.

(4) A licensee who practices while a license is lapsed is not considered to be practicing without a license.

(5) A licensee who practices after a license has expired is considered to be practicing without a license and is subject to discipline provided by statute or rule.

(6) A former licensee who practices after a license is terminated is considered to be practicing without a license and is subject to cease and desist or a district court restraining order.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-130, 37-1-141, MCA

REASON: It is reasonable and necessary to adopt this rule to clarify the three variations in license status if a license is not renewed by the renewal date. This provides clear direction to the licensee and describes the consequences for not renewing in a timely manner. See general reasons for more detail.

6. Each Board or Program that is promulgating rules implementing changes from HB 182 follow. Board rules appear first, by Boards being listed in alphabetical order, followed by Program rules, with Programs being listed in alphabetical order. New, amended, and repealed rules are intermingled in this section instead of being lumped together by action type. This format is being used to keep all rule changes pertaining to a specific Board or Program together to aid licensees, the public, Board members and Department staff. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

Editorial note: The above paragraph 6. is included in the proposal notice. In order to better serve those on the interested persons list, only the information applicable to this interested persons list (i.e., specific Board or Program) is included in this notice. If you would to prefer the proposal notice in its entirety (which includes each Board's and Program's rules), please contact the specific Board or Program that sent you this abbreviated notice or see the Department's website at: <http://www.mt.gov/dli/bsd/license/rules.asp>.

BOARD OF MEDICAL EXAMINERS

GENERAL REASONABLE NECESSITY STATEMENT FOR THE BOARD OF MEDICAL EXAMINERS:

In addition to the general reasonable necessity statement for the Division rule changes given at the beginning of this document, the following general reasonable necessity statement applies to the rule changes proposed for the Board of Medical Examiners rules.

The Board of Medical Examiners previously approved renewing licenses biennially instead of annually. In order to better serve the public and be more efficient, the renewal frequency change is being included in this notice. By consolidating these changes with the changes implementing HB 182, the number of times the same rules are amended over a short period of time is decreased, prevents running simultaneous amendments to the same rules, decreases the cost of promulgating rules by reducing the number of rulemaking notices required, and eliminates the

misconception that license fee amounts changed several times within a short time period, or that licensees were over regulated.

The total amount of the renewal fee is not changing; there will be no fiscal impact by moving from annual renewal to biennial renewal. It was arbitrarily decided that even numbered licenses would renew for a one-year period while odd numbered licenses would renew for a two-year period during the transition from annual renewals to biennial renewals. The new renewal structure is proposed to begin with the 2007 renewal cycle. Therefore, these licensees will have adequate time to prepare for the fee submittal change. The holders of odd numbered licensees will not renew their license during the 2008 renewal cycle.

The option of promulgating a separate rule notice addressing the renewal frequency and corresponding change to the fee rule was considered, but deemed to be inefficient, costly, and burdensome to the licensees. Therefore, the renewal frequency changes are being proposed at this time.

24.156.601 FEE SCHEDULE (1) through (1)(c) remain the same.

(d) Renewal fee (active)

(i) even numbered licenses renewing for one year 200

(ii) odd numbered licenses renewing for two years 400

(e) Renewal fee (inactive)

(i) even numbered licenses renewing for one year 100

(ii) odd numbered licenses renewing for two years 200

(f) Renewal fee (inactive-retired)

(i) even numbered licenses renewing for one year 32.50

(ii) odd numbered licenses renewing for two years 65

(g) ~~Penalty fee~~ 150

(h) ~~Verification fee~~ 20

(2) Additional standardized fees to be charged are specified in [NEW RULE

III].

(3) All fees are nonrefundable.

AUTH: 37-1-134, 37-1-141, 37-1-319, 37-3-203, MCA

IMP: 37-1-134, 37-1-141, 37-3-203, 37-3-304, 37-3-308, 37-3-309, 37-3-311, 37-3-313, MCA

REASON: See both general statements of reasonable necessity. Based on fiscal year 2005, it is estimated that the creation of standardized fees will have the following impact:

(1) 50 licensees will request duplicate licenses for a \$250 increase in revenue;

(2) 127 requests for licensee lists or rosters will be received for a \$3,175 increase in revenue;

(3) ten licensees will request status change for a \$1,000 increase in revenue;

(4) two physician, osteopath, or podiatrist licensees will request suspended license renewal for a \$200 decrease in revenue;

- (5) one EMT, nutritionist, or physician assistant licensee will request suspended license renewal for a \$15 decrease in revenue;
- (6) 122 physician or podiatrist licensees will pay the late penalty fee for a \$6,250 increase in revenue;
- (7) ten physician assistant licensees will pay the late penalty fee for a \$500 decrease in revenue;
- (8) 24 EMT F licensees will pay the late penalty fee for a \$480 increase in revenue;
- (9) 96 EMT B licensees will pay the late penalty fee for a \$2,880 increase in revenue;
- (10) 13 EMT P licensees will pay the late penalty fee for a \$780 increase in revenue;
- (11) five EMT I licensees will pay the late penalty fee for a \$225 increase in revenue; and
- (12) three acupuncturist or nutritionist licensees will pay the late penalty fee for a \$300 decrease in revenue.

24.156.602 NONREFUNDABLE FEES found at ARM page 24-15041 is proposed to be repealed.

AUTH: 37-3-203, MCA
IMP: 37-3-314, MCA

REASON: This rule is to be repealed in order to standardize policies and procedures within the Department as directed by HB 182. It is standard practice for the fee rules of the Department to identify that fees are nonrefundable. It would have been necessary to amend ARM 24.156.602 to reflect the migration to a biennial basis instead of an annual basis. By repealing the rule instead of amending it, the fee rule will now be consistent with other Division rules.

24.156.615 ANNUAL REGISTRATION RENEWALS AND FEES

- (1) ~~Annual registration Renewal~~ notices ~~are to will~~ be sent by the department ~~on or before February 1 of each year~~ as specified in [NEW RULE V].
- (2) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.
 - (a) Licensees with an even numbered license will renew for a one-year period.
 - (b) Licensees with an odd numbered license will renew for a two-year period.
 - (c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.
- ~~(2)~~ (3) A physician actively engaged in the practice of medicine ~~on~~ with a permanent license shall pay an annual license fee. If the physician does not pay the annual license fee and return the required renewal form and required information before April 1 ~~the date set by ARM 8.2.208~~, the physician must pay the delinquency late penalty fee listed specified in ARM 24.156.604 [NEW RULE III]; in order to renew the physician's license.

~~(3)~~ (4) A physician with a permanent license not actively engaged in the practice of medicine in this state or absent from this state for a period of one or more years may renew as an inactive licensee ~~for~~ and pay the annual inactive fee listed in ARM 24.156.601.

~~(4)~~ (5) A physician with a permanent license not actively engaged in the practice of medicine and who has retired from practice may renew his license as an inactive-retired licensee ~~for an annual~~ and pay the fee listed in ARM 24.156.601. A retired license may not be reactivated. The individual must reapply for a new original license.

(6) The provisions of [NEW RULE VI] apply.

AUTH: 37-1-134, 37-1-141, 37-3-203, MCA

IMP: 37-1-134, 37-1-141, 37-3-313, MCA

REASON: See both general statements of reasonable necessity.

24.156.617 ACTIVE AND INACTIVE LICENSE (1) through (2) remain the same.

(a) As used in this rule, "renewal period" means:

(i) for even numbered licenses, the time one-year period from April 1 the renewal date as listed in ARM 8.2.208 of a given year through March 31 of the following year. the day immediately prior to the renewal date of the following year;

(ii) for odd numbered licenses, the two-year period from the renewal date as listed in ARM 8.2.208 of a given year through the day immediately prior to the renewal date of the two-year cycle.

(b) remains the same.

(c) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An active license must be renewed annually, as provided in 37-3-313, MCA. as follows:

(i) licensees with an even numbered license will renew for a one-year period; and

(ii) licensees with an odd numbered license will renew for a two-year period.

(3) remains the same.

(a) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An inactive license must be renewed annually by a the renewal date set by the department; in ARM 8.2.208 as follows:

(i) licensees with an even numbered license will renew for a one-year period; and

(ii) licensees with an odd numbered license will renew for a two-year period.

(b) To renew a license on inactive status, a physician must pay a fee prescribed by the board, and ~~return a completed the~~ renewal form to the board office prior to April 1; the date set by ARM 8.2.208.

~~(c) If both the renewal fee and completed renewal form are not returned to the board office prior to April 1, the physician must pay a penalty fee prescribed by the board in order to renew the license.~~

(4) remains the same.

- (a) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An inactive-retired license must be renewed annually by a the renewal date set by the department; in ARM 8.2.208 as follows:
- (i) licensees with an even numbered license will renew for a one-year period; and
- (ii) licensees with an odd numbered license will renew for a two-year period.
- ~~(b) To renew a license on inactive-retired status, a physician must pay a fee prescribed by the board, and return a completed renewal form to the board office prior to April 1.~~
- ~~(c) (b) If both the renewal fee and completed renewal form are not returned to the board office prior to April 1 the date specified in ARM 8.2.208, the physician must pay a the late penalty fee prescribed by the board specified in [NEW RULE III] in order to renew the license.~~
- ~~(5) If a physician holding an inactive or inactive-retired license fails to pay the prescribed renewal fee or fails to return the completed annual renewal form by April 1, the physician's license may be revoked by the board on 30 days' notice of the date, time and place the board will consider the revocation.~~
- ~~(a) A registered or certified letter sent to the last-known address of the physician, as the address appears on the records of the department, constitutes sufficient notice of intention to revoke the inactive or inactive-retired license.~~
- ~~(b) If the physician pays the renewal fee and any required penalty fee and provides the completed annual renewal form before the date and time fixed for consideration of revocation, the license may not be revoked for nonpayment or failure to return the completed annual renewal form.~~
- ~~(6) The department may collect a renewal fee and any required penalty fee by an action at law.~~

AUTH: 37-1-141, 37-1-319, MCA

IMP: 37-1-141, 37-1-319, MCA

REASON: See both general statements of reasonable necessity.

24.156.805 FEES (1) remains the same.

- (a) The applicant shall submit an application fee of \$300 in the form of a check or money order payable to the board.
- (b) The licensee shall submit a renewal fee of \$150 biennially (on or before the expiration of two years from the date the certificate is issued date set by ARM 8.2.208) in the form of a check or money order payable to the board, together with a completed renewal form approved by the board.
- (2) Additional standardized fees are specified in [NEW RULE III].
- (2) remains the same but is renumbered (3).

AUTH: 37-1-134, 37-1-141, 37-3-203, MCA

IMP: 37-1-134, 37-1-141, 37-3-344, 37-3-345, ~~37-3-346~~, 37-3-347, MCA

REASON: See both general statements of reasonable necessity. Fiscal impact information follows ARM 24.156.601.

24.156.808 CERTIFICATE RENEWALS APPLICATION (1) Renewal notices will be sent as specified in [NEW RULE V]. Every two years the licensee shall complete and return an application for renewal on a form approved by the board, together with payment of the application renewal fee. The application for renewal and renewal fee are due on or before March 30, of the renewal year.

(2) The provisions of [NEW RULE VI] apply.

AUTH: 37-1-141, 37-3-203, MCA

IMP: 37-1-141, ~~37-3-346~~, MCA

REASON: See both general statements of reasonable necessity.

24.156.1002 FEES ~~(1)~~ (a) The annual renewal fee for a podiatrist, whether actively engaged or not, in the practice of podiatry in the state of Montana shall be:

(i) even numbered licenses renewing for one year \$200-

(ii) odd numbered licenses renewing for two years 400

~~(2)~~ (1) The following fees will be charged:

~~(a)~~ (b) Endorsement or reciprocity \$325

~~(b)~~ Penalty fee 150

~~(c)~~ Verification of licensure 20

(2) Additional standardized fees are specified in [NEW RULE III].

AUTH: 37-1-134, 37-1-141, 37-6-106, MCA

IMP: 37-1-134, 37-1-141, 37-3-203, 37-6-302, ~~37-6-303~~, MCA

REASON: See both general statements of reasonable necessity. Fiscal impact information follows ARM 24.156.601.

24.156.1004 ANNUAL RENEWALS (1) Renewal notices will be sent as specified in [NEW RULE V].

(2) The annual renewal date for a podiatry license is October 31 the date set by ARM 8.2.208.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) The provisions of [NEW RULE VI] apply.

AUTH: 37-1-141, 37-6-106, MCA

IMP: 37-1-141, 37-6-304, MCA

REASON: See both general statements of reasonable necessity.

24.156.1302 FEES (1) and (1)(a) remain the same.

(b) Renewal fee

(i) even numbered licenses renewing for one year \$ 50

(ii) odd numbered licenses renewing for two years 100

(c) ~~Late fee~~ 150

(d) ~~Verification of licensure~~ 20

(2) Additional standardized fees are specified in [NEW RULE III].

AUTH: 37-1-134, 37-1-141, 37-25-201, MCA

IMP: 37-1-134, 37-1-141, 37-3-203, 37-25-201, 37-25-302, ~~37-25-307~~,
MCA

REASON: See both general statements of reasonable necessity. Fiscal impact information follows ARM 24.156.601.

24.156.1305 LICENSE RENEWALS (1) ~~Forms of application for renewal of licenses will be mailed to all licensees by the board 30 days prior to expiration of existing licenses~~ Renewal notices will be sent as specified in [NEW RULE V].

~~(2) (4)~~ Completed applications for renewal, together with renewal fees and proof of current registration by the commission must be received no later than ~~October 31~~ the date set by ARM 8.2.208.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

~~(3) License fees will be treated as delinquent and subject to a late charge or fee on all renewal applications postmarked after October 31.~~

~~(4) (5) Failure to renew by October 31 will be treated as a violation of a rule of the board and grounds for disciplinary action under 37-25-308(4), MCA. The provisions of [NEW RULE VI] apply.~~

~~(5) (2) The annual renewal date for a nutritionist license is October 31~~ the date set by ARM 8.2.208.

AUTH: 37-1-131, 37-1-141, 37-25-201, MCA

IMP: 37-1-141, 37-25-307, MCA

REASON: See both general statements of reasonable necessity.

24.156.1402 FEES (1) remains the same.

(2) The ~~annual~~ renewal fee to practice acupuncture will be:

(a) even numbered licenses renewing for one year \$ 50-

(b) odd numbered licenses renewing for two years 100

~~An additional \$150 will be charged for late renewal.~~

~~(3) The board will charge a fee of \$20 for written verification of licensure.~~

(3) Additional standardized fees are specified in [NEW RULE III].

AUTH: 37-1-134, 37-1-141, 37-13-201, 37-13-301, 37-13-302, 37-13-304, 37-13-305, MCA

IMP: 37-1-134, 37-1-141, 37-3-203, 37-13-302, 37-13-304, 37-13-305, ~~37-13-306~~, MCA

REASON: See both general statements of reasonable necessity. Fiscal impact information follows ARM 24.156.601.

24.156.1411 ANNUAL RENEWALS DATE (1) Renewal notices will be sent as specified in [NEW RULE V].

(2) The annual renewal date for an acupuncture license is ~~October 31~~ the date set by ARM 8.2.208.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) The provisions of [NEW RULE VI] apply.

AUTH: 37-1-141, 37-13-201, MCA

IMP: 37-1-141, 37-13-306, MCA

REASON: See both general statements of reasonable necessity.

NEW RULE VII RENEWALS (1) Renewal notices will be sent as specified in [NEW RULE V].

(2) The renewal date for a physician assistant license is the date set by ARM 8.2.208.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) The provisions of [NEW RULE VI] apply.

AUTH: 37-1-141, 37-20-202, MCA

IMP: 37-1-141, 37-20-302, MCA

REASON: It is reasonable and necessary to adopt this new rule as a means of keeping with the intent of HB 182 and standardizing certain aspects of license renewal including setting uniform standards for license renewals, including renewal

periods, and notification periods. Several licensing entities do not have specific rules that address renewals, or have existing rules where it is appropriate to include language that addresses licensee notification regarding upcoming renewal dates, or clarification of new statutory definitions regarding license renewal. Therefore, this new rule is proposed in order to incorporate the three components that have been included within the text of numerous other rules to fulfill the changes brought about by HB 182. It is appropriate to propose the new rule at this time in order to maintain consistency regarding renewal requirements among all entities licensed by the Division. See also both general statements of reasonable necessity.

24.156.1605 FEES (1) remains the same.

(2) The fee for annual renewal of a license is as follows:

(a) even numbered licenses renewing for one year \$100-

(b) odd numbered licenses renewing for two years 200

~~If said renewal is late, there is an additional \$150 fee.~~

(3) through (5) remain the same.

(6) ~~The fee for verification of licensure is \$20.~~ Additional standardized fees are specified in [NEW RULE III].

(7) All fees provided for in this rule are non-refundable.

~~(8) The date for annual license renewal and payment of fees therefore is set by the department.~~

AUTH: 37-1-134, 37-1-141, 37-20-201, MCA

IMP: 37-1-134, 37-1-141, 37-20-203, 37-20-302, MCA

REASON: See both general statements of reasonable necessity. Fiscal impact information follows ARM 24.156.601.

24.156.2717 EMT LICENSE RENEWAL (1) Renewal notices will be sent as specified in [NEW RULE VI].

(2) EMT licenses are issued on a biennial renewal cycle. EMT licenses ~~expire on March 31~~ must be renewed on or before the date set by ARM 8.2.208 of the last year of the two-year cycle.

~~(2)~~ (3) Except as provided in ~~(3)~~ (4), in order to renew an EMT license, the licensee must:

(a) through (c) remain the same.

(3) through (5) remain the same but are renumbered (4) through (6).

~~(6) For the EMT license renewal cycle following July 1, 2005, if the completed renewal application is postmarked after March 31 of the renewal year, the licensee will be assessed a late renewal fee in addition to the license renewal fee set in ARM 24.156.2731.~~

(7) The provisions of [NEW RULE VI] apply.

~~(7) Waivers of the late fee are at the discretion of the board.~~

AUTH: 37-1-141, 50-6-203, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 50-6-203, MCA

REASON: See both general statements of reasonable necessity.

24.156.2719 Lapsed Expired License (1) An ~~lapsed expired~~ EMT license may be renewed upon completion of an ~~lapsed expired~~ license renewal application. To renew an ~~lapsed expired~~ license the applicant shall:

(a) complete an ~~lapsed expired~~ license renewal application and submit it to the board;

(b) pay the license fee plus late ~~renewal~~ penalty fee as specified in [NEW RULE III] for each year the license has ~~lapsed expired~~ up to ~~three~~ two years;

(c) and (d) remain the same.

(2) Pursuant to 37-1-141, MCA, a professional or occupational license that has not been renewed within three years of the most recent renewal date automatically terminates. The provisions of [NEW RULE VI] apply.

(3) A lapsed license that has terminated may not be reinstated. A person whose license has lapsed shall re-apply for licensure and complete a new application pursuant to ARM 24.156.2713.

AUTH: 37-1-141, 37-3-203, 50-6-203, MCA

IMP: 37-1-141, 50-6-203, MCA

REASON: See both general statements of reasonable necessity.

24.156.2731 FEES (1) through (1)(i) remain the same.

~~(j) verification of licensure fee~~

20.00

(k) and (l) remain the same but are renumbered (j) and (k).

~~(2)~~ (3) All fees provided for in this rule are non-refundable and are not prorated for portions of the licensing period.

(2) Additional standardized fees are specified in [NEW RULE III].

AUTH: 37-1-134, 37-1-141, 50-6-203, MCA

IMP: 37-1-134, 37-1-141, 50-6-203, MCA

REASON: See both general statements of reasonable necessity. Fiscal impact information follows ARM 24.156.601.

BOARD OF MEDICAL EXAMINERS
DR. MICHAEL LAPAN, D.P.M., PRESIDENT

/s/ VIVIAN V. HAMMILL

Vivian V. Hammill
Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

7. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Kathy Lubke, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to

DLIBSDHouseBill182@mt.gov, and must be received no later than 5:00 p.m., March 28, 2006.

8. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at <http://www.mt.gov/dli/bsd/license/rules.asp>. The Department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

9. The Division, and each Board and Program maintain a list of interested persons who wish to receive notices of rulemaking actions proposed by the Division, Board or Program. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding Division, and/or which Board or Program administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to Kathy Lubke, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to klubke@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

11. Kathy Lubke, Administrative Rules Specialist, has been designated to preside over and conduct this hearing.

/s/ VIVIAN V. HAMMILL
Vivian V. Hammill
Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 13, 2006